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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,994	06/04/2001	Hirohumi Takiue	WN-2326	4685

7590 07/17/2003  
McGinn & Gibb, PLLC  
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EXAMINER

SUN, XIUQIN

ART UNIT PAPER NUMBER

2863

DATE MAILED: 07/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/871,994

Applicant(s)

TAKIUE, HIROHUMI

Examiner

Xiuqin Sun

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-17 is/are allowed.
- 6) ☒ Claim(s) 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

1. Based on the newly found prior art the finality of the office action of 06/16/2003 is hereby withdrawn and replaced by the following office action.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harada et al. (U.S. Pat. No. 5721583) in view of Hulyalkar et al. (U.S. Pat. No. 6339585 B1).

Harada et al. teach a method of analyzing data in a center, wherein said data is obtained from an instrument measuring an object in a user and sent through a communication network to the center (see abstract; Figs. 1-2 and col. 10, lines 25-41), comprising the step of: transmitting measurement data from said measuring instrument to said center if said communication link is established (col. 9, lines 40-48 and col. 10, lines 25-41).

Harada et al. do not mention explicitly the method steps of: determining if a direct communication link between a measuring instrument and an analyzing center is established; transmitting measurement data from said measuring instrument directly to a terminal unit and transmitting said measurement data directly from said terminal unit

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to said analyzing center if said direct communication link between said measuring instrument and said analyzing center is not established, wherein said measuring instrument and said terminal unit comprise a user system.

Hulyalkar et al. teach a method of transmitting information in a communications system, comprising the steps of: determining if a direct communication link between a measuring instrument and a wireless terminal is established; transmitting measurement data from said measuring instrument directly to a temporary terminal unit and transmitting said measurement data directly from said temporary terminal unit to said wireless terminal if said direct communication link between said measuring instrument and said wireless terminal is not established, wherein said measuring instrument and said temporary terminal unit comprise a user system (col. 2, lines 17-34; col. 4, lines 34-47; col. 5, lines 1-46; col. 7, lines 1-20; col. 11, lines 46-67; col. 12, lines 65-67 and col. 13, lines 1-7).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the teachings of Harada et al. in the Harada method and link the wireless terminal to a data analysis center in order to provide a reliable data communication system which can still operate without any interruption even when the communication link is not established (Harada et al., abstract and col. 9, lines 48-51).

***Allowable Subject Matter***

4. Claims 1-17 are allowed.

***Reasons for Allowance***

5. The following is an examiner's statement of reasons for allowance:

The primary reason for the allowance of independent claims 1, 5 and 12 is the inclusion of the limitations of: judging whether said measured data is simple based upon a predetermined standard, sending back a setting data to said instrument if said measured data is not simple, and sending an analysis result to said terminal. It is these limitations found in the claims, as they are claimed in the combination, that has not been found, taught or suggested by the prior art of record which makes these claims allowable over the prior art.

In regard to dependent claims 2-4, 6-11 and 13-17, they are allowed once the independent claim they depend on is allowed, even though they may contain allowable subject matter themselves.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Response to Arguments***

7. Applicant's arguments filed 06/16/2003 with respect to claim 18 have been considered but are moot in view of the new ground(s) of rejection.

Claim 18 is rejected as new art (Hulyalkar et al., U.S. Pat. No. 6339585 B1) has been found to teach the following subject matter: transmitting the measurement data using an alternative communication link via a temporary terminal unit if a direct communication link is not established. For detailed response, please refer to section 2 set forth above in this Office Action.

***Contact Information***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Xiuqin Sun whose telephone number is (703)305-3467. The examiner can normally be reached on 7:00am-4:30pm.

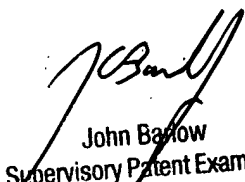
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (703)308-3126. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9318 for regular communications and (703)872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.

XS

July 8, 2003

  
John Barlow  
Supervisory Patent Examiner  
Technology Center 2800